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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/086,508

05/28/1998

MARK A. JOHANSON

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08/29/2002

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EXAMINER

BROWN, MICHAEL A

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 08/29/2002

25

Please find below and/or attached an Office communication concerning this application or proceeding.



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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Paper No. 1

Application Number: 09/086,508  
Filing Date: May 28, 1998  
Appellant(s): JOHANSON ET AL.

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Johansen et al \*\*\*  
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 28, 2000.

This is in response to the brief on appeal filed 06/18/01

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

This appeal involves claims 1-8 and 10-21.

Art Unit: 3700

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Invention**

The summary of invention contained in the brief is correct.

**(6) Issue**

The appellant's statement of the issues in the brief is correct **(10) Grounds of Rejection.**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-6 and 10-21 remain rejected under 35 U.S.C. (b). This rejection is set forth in prior Office action, Paper No 14.

**(7) Grouping of Claims**

Appellant's brief includes a statement that claims 1- 6 and 10-21 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c )(7)and (c )(8).

**(8) Claims Appealed**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art**

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

1.	4,012,984	Matuschak	02-1977
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**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Art Unit: 3700

Claims 1-6 and 10-21 remain rejected under 35 U.S.C. (b). This rejection is set forth in prior Office action, Paper No. 14.

**(11) Response to Argument**

Appellant argues that Matuschak does not disclose a floating washer. Appellant defines a "float" as capable of at least longitudinal motion and limited angular motion.

MB Clearly, any mechanical washer broadly speaking is a <sup>floating</sup> floating washer that is capable of at least longitudinal motion and limited angular motion. The capability can be performed by not fastening the washer tightly against a surface. The word "floating" does not provide any additional structure to a washer. Appellant argues that the washer disclosed can not conform to the surface of an element being secured, because it does not extend beyond the head (2) of the rivet. However, the washer (12) conforms to the surface (16). Just as the washer conforms to the surface (16) it could be pressed against the surface of a bone. The claims do not require the washer to extend beyond the head of the fastener. Appellant argue that the washer in the present invention is capable of performing the floating function. However, as set forth above any washer can float if it is not fasten down onto a surface. Appellant argues that the washer disclosed in Matuschak is not secured by expansion of the sleeve. However, Matuschek clearly discloses the head expands causing the washer to secure against a surface.

Appellant argue that the washer disclosed by Matuschek is above the head, so consequently the washer (can not be sandwich between a bone and the head).

However, the washer can be located at any position on the threaded stem (6). Since the

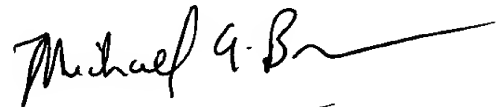
Art Unit: 3700

bone can not be claimed it does not matter if the washer is sandwich between the bone and the head of the rivet. For above reasons, it is believed that the rejections should be sustained.

Respectfully submitted.

Michael Brown:bhw

June 19, 2002



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